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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,718	10/26/2001	David Ternes	279.405US1	2631
21186	7590	02/15/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			OROPEZA, FRANCES P	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20591  
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10/003718

6  
Paper No.

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 1/3/05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

1. Amendments to the specification:  
 A. Amended paragraph(s) do not include markings.  
 B. New paragraph(s) should not be underlined.  
 C. Other \_\_\_\_\_

2. Abstract:  
 A. Not presented on a separate sheet. 37 CFR 1.72.  
 B. Other \_\_\_\_\_

3. Amendments to the drawings: \_\_\_\_\_

4. Amendments to the claims:  
 A. A complete listing of all of the claims is not present.  
 B. The listing of claims does not include the text of all claims (incl. withdrawn claims)  
 C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.  
 D. The claims of this amendment paper have not been presented in ascending numerical order.  
 E. Other: SEE ATTACHMENT #5

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opia/preonotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH time limit is not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a)**.

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

July 22, 2003 (rev.)

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Art Unit 3762  
2-11-05

***Non-Compliant Amendment***

Attachment #5

The Applicant submitted 36 claims in the application on 1/26/01.

In response to the restriction requirement filed 4/15/04, the applicant misnumbered the claims repeating numbers 25 and 26 twice and repeating the final two claims twice.

In the current response filed 1/3/05, the applicant corrected the numbering, but left claims 37 and 38 in the listing. Claims 37 and 38 are not original claims and are duplicates of claims 35 and 36.

Appropriate correction is required.

Frances P. Oropeza  
Patent Examiner  
Art Unit 3762